

# United States Senate

WASHINGTON, DC 20510

January 9, 2017

The Honorable Chuck Grassley  
Chairman  
Senate Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Grassley:

In anticipation of the attorney general confirmation hearings scheduled for January 10 and 11, as well as subsequent hearings related to Department of Justice nominees, we write to request your commitment to protecting the integrity and independence of the Department and its career attorneys. Our concerns are not hypothetical. Rather, they are rooted in the pattern of partisan personnel decisions and documented political interference that prevailed during the George W. Bush Administration.

As you know, a joint Office of Inspector General and Office of Professional Responsibility report issued in July, 2009 found that Bradley Schlozman, first as a Deputy Assistant Attorney General and subsequently as Principal Deputy Assistant Attorney General and Acting Assistant Attorney General, broke federal law and Department policy by “consider[ing] political and ideological affiliations in hiring career attorneys and in other personnel actions affecting career attorneys in the Civil Rights Division.” The report also found that Schlozman inappropriately considered political and ideological affiliations both in hiring new attorneys and in transferring and assigning cases among career attorneys in the sections he supervised. Schlozman was found to have expressed his intent in an e-mail to “gerrymander those crazy libs out of the [Voting Rights] section” and to replace them with “real Americans” and “right-thinking Americans.”

While Schlozman no longer works at the Department of Justice, some of his colleagues from that era have been sending clear messages to President-elect Trump’s transition team. One of those former officials, Hans Von Spakovsky, now with the Heritage Foundation, has said that “[c]leaning. . . up [the Department of Justice] will be as difficult as cleaning out the Augean stables. Hercules had to divert two rivers to wash out the filth, and it will take a similarly massive effort at Justice to wash out the politics and progressive liberal activism that infests the agency from top to bottom.” J. Christopher Adams, who resigned from the Department in 2010, has laid out on his blog a three-step proposal for “draining the swamp” based on lessons learned from the Bush Administration’s “failure to take swift remedial action” against career attorneys. To get around civil service protections, Adams has gone as far as calling on Congress to pass a Reduction in Force aimed at “dislodging” career staff.

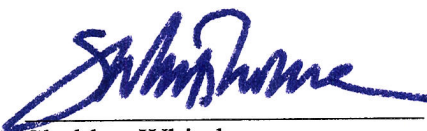
In light of the recent history of the Department, as well as news of a deeply troubling questionnaire demanding that the Department of Energy provide to President-elect Trump transition officials a list of names of employees working on climate change policies, we are concerned about efforts to base personnel decisions on the political affiliations—or perceived political affiliations—of career prosecutors. The American Bar Association Model Code of Professional Responsibility states clearly that the “duty of a lawyer, both to his client and to the

legal system, is to represent his client zealously within the bounds of the law.” No attorney should be targeted merely on the basis of his or her prior zealous advocacy on behalf of a different Administration’s priorities.

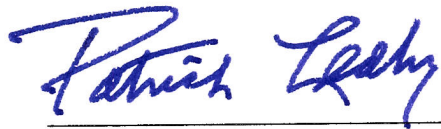
During the last Bush administration, our Committee documented unprecedented interference in prosecutorial decisions by political appointees in the White House. You will recall we found that over four hundred individuals were authorized to engage in discussions with the Department about matters under investigation or prosecution, compared with four during the Clinton years. Senator Hatch viewed this as a substantial concern when he was Chairman of this Committee and Senator Sessions raised it as a concern during the confirmation hearings for Attorney General Loretta Lynch, where he stated that “you need to make it a central part of what you do, to reverse that trend and restore confidence that this attorney general’s office serves the law and the people objectively, and not a political agenda.” That same principle should apply to a Department run by Senator Sessions, should he be confirmed.

We must not return to those dark days when political interference in personnel and prosecutorial decisions undermined the public’s faith in the Department. Given your longstanding efforts to keep the Department free of politicization, we hope you will join our call that all nominees commit to maintaining policies and procedures that guard against this improper interference. For example, in response to the scandals of the Bush-era Department of Justice, the Civil Rights Division instituted an “Experienced Attorney and Attorney Manager Hiring Policy” that outlines a detailed and transparent process that minimizes undue political interference when new attorneys are hired. Thanks partly to this Committee’s efforts, as documented, for instance, in correspondence between the Reno Department of Justice and former Chairman Hatch, we know that protections can be put in place to reduce the risk that prosecutorial decisions are improperly influenced by those outside the Department. Policies like these are the cornerstone of a Department that has the trust of the American people.

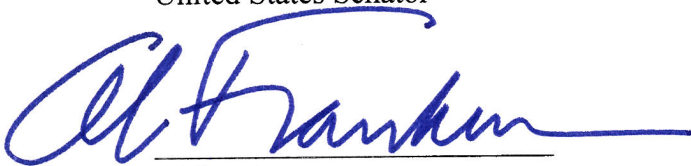
Sincerely,



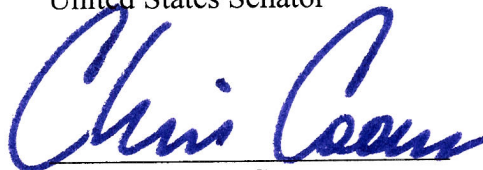
Sheldon Whitehouse  
United States Senator



Patrick Leahy  
United States Senator



Al Franken  
United States Senator



Christopher A. Coons  
United States Senator



Richard Blumenthal  
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